

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Southern District)**

THOMAS ALSTON,

*

Plaintiff,

*

Civil Action No: _____

v.

*

ABC FINANCIAL SERVICES, INC., *et al.*,

*

Defendants.

*

* * * * *

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MARYLAND, SOUTHERN DISTRICT:

PLEASE TAKE NOTICE that Defendants LMD Gyms, Inc. (“LMD”) and GBG, Inc. (“GBG”) hereby remove the action captioned *Thomas Alston v. ABC Financial Services, Inc. et al.*, Case No. CAL-17-18362, originally filed in the Circuit Court for Prince George’s County, Maryland, (the “State Court Action”) to this Court pursuant to 28 U.S.C. §§ 1331, 1441 and 1446 and Local Rule 103.5, and state the following in support thereof:

State Court Action

1. On or about July 28, 2017, Plaintiff Thomas Alston filed a Complaint and Demand for Jury Trial individually and on behalf of an alleged class of similarly-situated persons against LMD, ABC Financial Services, Inc., GBG, Inc. and Gold’s Gym International, Inc. (the “State Court Action”).

2. A Summons and a copy of the Complaint were purportedly served on LMD’s resident agent via regular mail on or about August 17, 2017.

3. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 103.5(a), attached to this Notice of Removal as **Exhibit A** are true and correct copies of all process and pleadings served upon LMD in the State Court Action, along with copies of all other documents currently on file with the state court. To LMD's knowledge, no further proceedings have been conducted in the State Court Action, but the circuit court did issue a scheduling order which is among the pleadings attached as **Exhibit A**.

Jurisdiction Pursuant To 28 U.S.C. §§ 1331 (Federal Question) and 1367

4. The State Court Action is one over which this Court has original jurisdiction under 28 U.S.C. § 1331 and supplemental jurisdiction under 28 U.S.C. § 1367.

5. The State Court Action is a suit of a wholly civil nature.

6. Count One of the State Court Action alleges violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.*, and thus arises under federal law.

7. The remaining counts in the Complaint allege similar violations of analogous state statutes, forming the same case or controversy as Count One.

8. Accordingly, this is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction under 28 U.S.C. § 1367, and which may be removed pursuant to 28 U.S.C. § 1441.

Timeliness of Notice of Removal

9. The Summons and Complaint were mailed to LMD's resident agent on or about August 17, 2017. (See envelope with postage stamp, attached as **Exhibit B**). Prior to receiving this mailing, LMD was unaware of the existence of this lawsuit. Although the mailing was not effective service,¹ LMD is treating it as such for purposes of this Notice of Removal.

¹ Maryland Rule 1-121(a)(3) requires that service by mail be made only "by certified mail requesting: 'Restricted Delivery,' not first-class mail.

10. GBG was purportedly served on August 22, 2017.

11. Accordingly, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b)(1), which provides that a “notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”

Removal to this Court is Appropriate

12. Pursuant to 28 U.S.C. § 1441(a), the action is removed to this Court as the district and division embracing the place where the State Court Action was pending.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

14. Defendant Gold’s Gym International, Inc. has not been served with the Complaint and, therefore, does not join this Notice of Removal. Defendant, ABC Financial Services, Inc., was notified and consents to the removal.

15. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be promptly served on Plaintiff and filed with the Clerk of the Circuit Court for Prince George’s County.

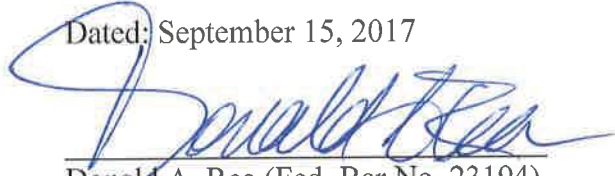
16. LMD hereby reserves all rights to assert any and all defenses to the Complaint. The filing of this Notice of Removal and the filing of other documents in connection therewith is subject to and without waiver of any defenses and objections.

17. LMD reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, LMD Gyms, Inc. hereby gives notice that this action is removed from the Circuit Court for Prince George's County, Maryland to the United States District Court for the District of Maryland pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

Respectfully submitted,

Dated: September 15, 2017



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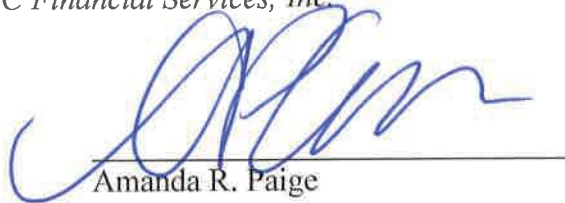
*Counsel for Defendants LMD Gyms, LLC, and
GBG, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of September, 2017, a copy of foregoing
Notice of Removal was sent by first-class mail, postage prepaid, to:

Thomas Alston
10012 Cedarhollow Lane
Largo, Maryland 20774
Pro Se Plaintiff

Bradley T. Canter
The Law Offices of Ronald S Canter, LLC
200-A Monroe Street, Ste. 104
Rockville, Maryland 20850
Counsel for ABC Financial Services, Inc.



Amanda R. Paige